

**Draft Minutes of the meeting of the
Commonwealth Competition Council
held Tuesday, April 29, 2003, 10 a. m.
General Assembly Building, Senate Room A, First Floor
Richmond**

Members present:

Senator Emmett W. Hanger, Jr., Chairman
Dr. Earl H. McClenney, Jr., Vice Chairman
Robert A. Archer
Sandra D. Bowen
Richard D. Brown
Beverly B. Davis
Delegate Allen L. Louderback
Edgardo Marquez
Michael N. Pocalyko
Delegate Thomas D. Rust
Senator John C. Watkins
Sara Redding Wilson
David M. Zobel

Members absent:

Roy Page
Bernice E. Travers

Notice of the meeting appeared in the Commonwealth Calendar on the Internet and individual notices were sent to those asking to be notified of all Commonwealth Competition Council meetings.

Senator Hanger presided over the meeting and extended a welcome to all present. Each Council member introduced himself and the Chairman announced the three new members of the Council who were recently appointed by Governor Warner:

Sandra D. Bowen, of Henrico, Secretary of Administration, to the unexpired three-year term ending June 30, 2003, succeeding G. Bryan Slater of Richmond. Secretary Bowen fills one of the four executive branch employee seats on the Council.

Sara Redding Wilson, of Goochland, Director, Department of Human Resource Management, to a three-year term ending June 30, 2005, succeeding Howard Lee of Lorton. Mrs. Wilson fills one of the four executive branch employee seats on the Council.

Beverly B. Davis, of Richmond, Vice President and Chief Operating Officer of Davis Brothers Construction Company, Inc., to a three-year term ending June 30, 2005, succeeding the Rev. Dr. S. Strother Smith, III, of Abingdon. Mrs. Davis fills one of the private sector seats on the Council.

The Chairman also announced the reappointment of Richard D. Brown, of Henrico, Director, Department of Planning and Budget, to a three-year term ending June 30, 2005. Mr. Brown fills one of the four executive branch employee seats on the Council.

Appreciation was expressed by the entire Council to Mr. Pocalyko for his dedication in working with the Council. Mr. Pocalyko's three year term ends June 30, 2003.

Public Comment

There was no public comment offered. The Chairman invited those in attendance to feel free to stand and be recognized at any time during the meeting should a topic of mutual interest be discussed.

Minutes

The minutes of the July 30, 2002, meeting of the Council were approved and will be filed with the permanent records of the Council. As a reminder, draft minutes appear on the Internet as soon as possible but not later than ten working days following the meeting in accordance with § 2.2-3707.1 of the *Code of Virginia*. Final approved minutes are posted within three working days of final approval.

Commonwealth Competition Council minutes are being posted in accordance with the above to the Council web page, <http://www.egovcompetition.com>.

Steam project/Public-Private Partnership

Mr. Ian Bendall of England and Mr. John Jimison, both with the firm, CMS Cameron McKenna of Washington, D. C., spoke with the Council concerning their experiences with public-private partnerships (PPP) in the United Kingdom. Benefits of successful PPP included completion of projects on time and on budget, more efficient provision of services at lower cost, more effective design and management and increased user focus, all allowing the government to focus on policy and regulatory duties. They specifically spoke with the Council about PPP for providing energy to State facilities. The Council was told the time was right for Virginia to consider PPPs for its institutional energy plants. In 2001 the Commonwealth spent \$18.5 million for boiler fuel in its 28 institutional facilities, and with rising natural gas prices this will increase. When asked about the sale or distribution of electricity and if this aggregated the purchasing power, the gentlemen advised the Council that no analysis of aggregated heating/steam collection had been done for Virginia. When asked what client CMS represented today, they advised that there was no formal client. The material discussed at the meeting will be made a part of the minutes.

Commonwealth Competition Council funding

Mr. Brown spoke with the members on the future funding of the Council. He reminded the Council that as of June 30, 2003, the general fund support of the Council ends. The language in the Appropriation Act dictates that:

Item 62, 1:

“No later than April 1 of each year, the Auditor of Public Accounts shall certify to the Comptroller the total new savings realized by state agencies in the preceding fiscal year as a result of Commonwealth Competition Council recommendations. The Comptroller shall transfer not more than 10 percent of such savings to a nonreverting special fund account for support of the Council’s operations. The Commonwealth Competition Council shall further be authorized to receive, retain and authorize expenditures from nonreverting funds as a result of long-term, as opposed to one-time, savings and recommendations on projects initiated by the Council. These funds shall accrue savings at a declining rate over five years, beginning with ten percent and declining two percent per fiscal year. Total transfer shall not exceed the appropriation line item.”

He provided to the Council a copy of his March 28, 2003, letter to the Auditor of Public Accounts wherein he outlined two claims for funding consideration by the Council: land sale at Mary Washington College and savings from actions taken by the General Assembly based on a recommendation of the Council on the food distribution system for prisons and mental health facilities. He indicated that the land sale was included in a Joint Legislative Audit and Review Commission report in 1996.

The conclusion reached by the Department of Planning and Budget was it could confirm that in fiscal year 2002, \$2.4 million in savings was realized resulting from various actions identified by the Council. However, some of these savings have already been captured in the budget so it was not clear that they constituted “additional savings” in accordance with the language in Item 62 of the Appropriation Act. He advised the Council he would continue to explore any and all alternatives and savings opportunities. He said that clearly the Council had savings initiatives, but the language in the Appropriation Act was problematic.

A discussion ensued on the importance for the Council to continue to formally make recommendations to the Governor, the General Assembly, and the Small Business Commission. Delegate Louderback discussed two such initiatives that he had personally worked on and was successful in getting cost cutting actions taken by the Executive Branch. These were the centralization of the employee suggestion program in the Department of Human Resource Management and the color of the Virginia Department of Transportation trucks. He needed to make sure that the Competition Council is given credit for these two initiatives. He asked Mrs. Wilson to prepare a report on the employee suggestion program to show statistically the number of suggestions made and the savings realized through the centralized program vs. the program statistics when it was decentralized. She advised the Council that she would provide such a report. She also advised the Council of the Governor’s “ASK WHY” program that has generated some 750 ideas. This is the program to improve the Commonwealth from within. Her agency has re-engineered the process for employee suggestions and has implemented one of Delegate Louderback’s recommendations of the submissions being anonymous to allow a completely neutral review of the suggestion.

With respect to the change in the color of the VDOT trucks, Delegate Louderback said he had worked diligently on this for three years. That agency’s previous practice of specifying the color orange or other color added to the cost of each vehicle purchased.

Mr. Pocalyko said he felt the change in funding has caused a cultural issue for the Council. It has never cared about the parentage of ideas, but the legislatively mandated modification to the funding has resulted in the Council having to sustain its funding from its implemented recommendations.

It was agreed that the Council would continue to work on the funding mechanism and process being followed to carry out the intent of the language in the Appropriation Act.

Energy performance contracting

Mr. Arthur L. Vertner, Chairman and Co-founder of Abacus Engineered Systems, spoke with the Council on the experience of his company in energy performance contracting. Mr. Vertner from Seattle, Washington, was accompanied by David R. Ames, Director of Business Development for Abacus’ Virginia office. He told the Council that energy performance contracting is a procurement method which allows facility improvement by leveraging current inefficiencies, ensures cost savings are realized through guarantees from private industry, and introduces sustainable performance in public facilities management. Key points of the presentation included two methods available to implement energy performance contracting: through the Department of General Services based on House Bill 1967 (2001), the Energy and Operational Efficiency Performance-based Contracting Act, and the public-private partnerships provided for by the Public-Private Education Infrastructure Act (PPEA) authorized by SB 681 (2002). He said the DGS program was specifically designed to promote and encourage performance contracting, provides a straight-forward approach to procurement, and offers direct assistance to public entities interested in pursuing a performance contracting project. He spoke with the Council about the PPEA process which allows greater flexibility to state agencies, counties, and municipalities with respect to the types of projects. He said pure energy related projects can be blended with other public needs such as building new facilities or facility expansion. Secretary Bowen asked Mr. Vertner and Mr. Ames to follow up with her on the metrics in projects.

Transitional Benefit Corporation Model (Employee Stock Ownership Plan)

Steven M. Sorett, of Counsel with the Washington, D. C., Office of Reed Smith, LLP, spoke with the Council on the transitional benefit corporation (TBC). He said this is a means to promote the transfer of designated, generally underutilized, government assets, such as real estate, equipment, and intellectual property, to the private sector. The TBC also enables associated government employees similarly redeployed to retain and accrue their public benefits. He said this method delineates a legal and business framework for effecting such a transition using a nonprofit umbrella structure. It provides a structured methodology to analyze selected government operations with a view toward enhancing efficiency by reducing costs, redistributing workloads, and maximizing asset utilization. He advised the Council that under the TBC model, an umbrella organization is created that facilitates the smooth transition of public sector assets and personnel to the private sector by attracting financing, incubating new business units, creating spinoffs, and commercializing government-owned intellectual property. He said that because of its uniqueness, the TBC is a patent-pending methodology. It is designed to be a preferred alternative to outsourcing, managed competition (federal A-76 program), privatization, or base closures. He told the Council that there was the increased possibility that Virginia would be hit in the next round of base closures, citing the close proximity of Fort Pickett in Blackstone, Fort Eustis in Newport News, and Langley Air Force Base, all or near the Tidewater area. He encouraged the state to become proactive in this effort to avoid what happened at Fort Ord in Monterey, California, which has become a deserted location. Planning at this time is greatly needed so as to avoid the spiraling downside when bases close such as unemployment, decreased tax base, etc. Mr. Sorett advised that he was representing Tremco. The possibility of base closing was discussed at length with the realization that alternatives needed to be explored.

Telephone communications audit

Mr. Phil K. Bomersheim, Executive Director, brought the Council up-to-date on the state telephone communications audit that could save the state agencies and institutions significant monies. He said the Council is partnering with the Department of Information Technology who is scheduled to release a request for proposal on April 30. This RFP would require a complete audit of all telecommunications lines in the state. It was projected to generate some 15.5% savings for each audit recommendation implemented. This audit would be performed at no cost to the Commonwealth with the successful vendor being paid from a percentage of implemented savings. Mr. Bomersheim told the Council that this project has been under discussion with DIT for over a year, and is an example of how long it takes for some projects to be implemented. On motion of Senator Watkins, seconded by Dr. McClenney, the Council unanimously approved the motion for the staff to continue with this project through completion so that the state can benefit from this potential cost savings recommendation. It was understood that the applicable percentage of any savings earned by the Commonwealth on this audit would accrue to the benefit of the funding for the Council.

Extension of Not-for-Profit and Authorities Study Update

Dr. McClenney serves as Chairman for the Council's continuing project on identifying and cataloging all Authorities in Virginia. This study is a continuation of one aspect of the Council's efforts in 2001 and 2002 in studying and developing a plan to maintain a statewide database of nonprofit and not-for-profit entities in Virginia. Over 616 Authorities have been identified operating in the Commonwealth, and more are being identified almost daily. Dr. McClenney introduced three Virginia State University students who have served as this year's interns for this project. Ms. Tiffany Holmes is a graduating senior, and Mr. Anthony Compton and Mr. Teon Everett are rising seniors, all students in the Public Administration Program at VSU. The Council publicly expressed their appreciation for the outstanding efforts of these three individuals in helping develop the inventory of Authorities. Dr. McClenney will provide a comprehensive report at the fall meeting of the Council.

Capitol Gift Shop

Mrs. Peggy R. Robertson, Executive Assistant, briefed the innovative revenue producing concept of a major gift shop in the State Capitol. She said that over the many years she has worked in Richmond and being in the Square over weekends, the Square is full of tourists and visitors plus over 183,000 visitors annually who are given tours of the Capitol. She said that the lunch shop in the Capitol offers a handful of souvenir but their primary function was to sell breakfast and lunch food products. She said there was a need for a comprehensive gift shop in the State Capitol. The concept briefed showed a shop with a wide range of products so that a child on a bus tour with a quarter in his pocket could purchase something from the gift shop. She envisioned there would be high dollar items as well for purchase. Mrs. Robertson shared with the Council a proprietary concept which reflected how one room in the Capitol could be transformed into a state-of-the-art gift shop. It was projected the profits from this shop would be high and continuing, resulting in a significant revenue stream for the Commonwealth. She offered that the state would have the benefit of determining how the shop should be run: privately, public-private partnership, or a state-run venture. As an example, if run by state employees, the revenues could be used to offset renovations at the Capitol and the Executive Mansion or however the General Assembly so dictated. She said this type of detail could be worked out when the project was accepted. Mrs. Robertson also said there were several gift shops in the Richmond area including the Library of Virginia, Medical College of Virginia, academic campus of Virginia Commonwealth University, the Department of Game and Inland Fisheries, Virginia Museum of Fine Arts, the Senate of Virginia, Science Museum of Virginia, etc. Mr. Richard F. Sliwoski, Director of the Division of Engineering and Buildings of the Department of General Services, advised the Council that a tourist center was already being planned for the west end of the old State Library once the Capitol renovations were completed by 2007 and they he felt this would incorporate such a venture. The Council voted unanimously to endorse the Capitol gift shop with Mrs. Robertson to coordinate this innovative idea with the Mr. Sliwoski and other appropriate entities.

Staff report

Mr. Bomersheim announced that the Council had won the prestigious Pioneer Institute for Public Policy Research Award. The annual Better Government Competition contest is sponsored by the Institute's Shamie Center for Restructuring Government and is open to any citizen to improve the quality and cost-effectiveness of governmental services. The Council will receive the \$3,000 prize for its facilitating privatization program at the 2003 Better Government Competition awards dinner on June 3, 2003, in Boston. The Pioneer Institute is an independent, non-partisan, privately funded research organization that seeks to change the intellectual climate in Massachusetts.

Mr. Bomersheim also announced that the Council has submitted an entry in The Council of State Government annual competition. The Competition Council's entry falls under the Innovations category and highlights Virginia's efforts on its commercial activities.

He also referenced the past work of the staff on former Governor Allen's Commission on Surplus Property and the identification of some 99 pieces of property surplus to the state agencies and institutions. Each Council member received the three reports issued on surplus property:

- Governor's Commission on Conversion of State-owned Property, initial report and recommendations, dated April 25, 1996
- Governor's Commission on Surplus Property, Virginia's Real Estate. "Stewardship: A Blueprint for Positive Change," dated June 4, 1997
- Governor's Commission on Surplus Property, Virginia's Real Estate. "Opportunities for Higher or Better Uses," dated November 5, 1997

He acknowledged there was no audit trail on the Council workings on these two gubernatorial

commissions. Executive Orders No. 67 (1996) and No. 78 (1997) specifically named the Commonwealth Competition Council as one of the agencies to provide staff support for the work of the Governor's Commission on Surplus Property.

Mr. Marquez advised that the Council has proven it can be much more effective as a think tank when it don't have to worry about how the Council is funded. Since he has been a member, he said it doesn't make too much sense to have the Council's funding from a percentage of savings from over two years ago. He emphasized the effectiveness of this Council rests on its ability to use "think" assets the way in which the Council was originally created.

Virginia Public Service Week

Senator Hanger announced that the Governor has proclaimed the week of May 5-11 as Virginia Public Service Week in the Commonwealth, when the state pauses and recognizes all public service employees throughout the Commonwealth. The chairman called to the attention of the Council and those in the audience the outstanding efforts of our Council staff, Mr. Bomersheim and Ms. Robertson, and to the executive branch employees, Secretary Bowen, Mrs. Wilson, Mr. Brown and Dr. McClenney, and to Mrs. Sherri Wyatt from the Auditor of Public Accounts who was here today. On behalf of the Council, he thanked each of these state government employees for all that they do and continue to do for the Commonwealth. The Council appreciates all of their efforts.

Virginia Freedom of Information Act

In each member's meeting folder was a copy of the latest update of the Virginia Freedom of Information Act. The complete revised FOIA was not available at this time, but will be provided. Ms. Maria Everett, Executive Director of the Virginia Freedom of Information Advisory Council, has offered to talk with the Council at the next meeting to review this important Act. She will be invited to speak at that meeting.

Next meeting

The chairman announced that the next meeting will be on call of Chairman with the concurrence a quorum could be attained. In addition, he said the Council is slated to meet on the first Wednesday in January (January 7, 2004).

There being no further business, the meeting adjourned.

Emmett W. Hanger, Jr.
Chairman